

FORTY-SIXTH DAY
(Continued)
(Friday, April 24, 1987)

AFTER RECESS

The Senate met at 8:30 a.m. and was called to order by Senator Blake.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Edwards, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

H.B. 37

By unanimous consent, Senator Brooks submitted the following report for the Committee on Health and Human Services:

S.B. 511
S.B. 1401
S.B. 595
S.B. 1151

By unanimous consent, Senator Edwards, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 1163

By unanimous consent, Senator Brooks submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 1150
C.S.S.B. 1249
C.S.H.C.R. 98

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

The regular order of business having been suspended by Senate Rule 14.1(f), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time and passed: (Vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill.)

S.C.R. 57 (Armbrister) Designating the Texas Maritime Museum in Aransas County as the official State maritime museum. (vv)

S.B. 64 (Green) Relating to masters to serve the juvenile courts of Harris County. (30-1) Washington "Nay" (31-0)

S.B. 176 (Brown) Relating to the age at which a public school student may enroll in a driver education and traffic safety course. (30-1) Washington "Nay" (31-0)

C.S.S.B. 279 (Green) Relating to firemen's and policemen's civil service, classification, and grievance procedures; providing civil penalties. (30-1) Washington "Nay" (31-0)

S.B. 406 (Santiesteban) Relating to county change funds. (30-1) Washington "Nay" (31-0)

S.B. 639 (Green) Relating to residence of inmates of the Texas Department of Corrections for educational purposes. (30-1) Washington "Nay" (31-0)

S.B. 767 (Glasgow) Relating to the impoundment for failure to present proof of financial responsibility of a motor vehicle owned by a person not domiciled in the United States. (30-1) Washington "Nay" (31-0)

S.B. 840 (Sims) Relating to the term of office of elected public weighers. (30-1) Washington "Nay" (31-0)

S.B. 865 (Blake) Relating to the obligation of territory de-annexed or excluded from a rural fire prevention district to pay its pro rata share of the district's debt. (30-1) Washington "Nay" (31-0)

S.B. 935 (Montford) Relating to the filing deadline for candidates' applications for a place on the ballot for certain city offices. (30-1) Washington "Nay" (31-0)

C.S.S.B. 961 (Barrientos) Relating to contributions to and benefits from fire fighters' retirement systems in certain cities. (30-1) Washington "Nay" (31-0)

S.B. 998 (Santiesteban) Relating to affidavits certifying certain convictions under the Parks and Wildlife Code and other information provided to the Texas Parks and Wildlife Department by a justice court. (30-1) Washington "Nay" (31-0)

S.B. 999 (Santiesteban) Relating to recovery by the State for the value of certain fish, shellfish, reptiles, amphibians, birds, or animals. (30-1) Washington "Nay" (31-0)

C.S.S.B. 1055 (Green) Relating to the abatement of public nuisances in certain counties; providing penalties. (30-1) Washington "Nay" (31-0)

S.B. 1206 (Santiesteban) Relating to a foreign trade zone adjacent to the U.S. Customs Port of Entry at El Paso. (30-1) Washington "Nay" (31-0)

Senator Santiesteban offered the following committee amendment to the bill:

Amend **S.B. 1206** in Section 1 on the fourth line by inserting the words "in or" after the words "foreign trade zone" and before the word "adjacent".

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Santiesteban and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

C.S.S.B. 1375 (Glasgow) Relating to microfilm records of county clerks. (30-1) Washington "Nay" (31-0)

S.B. 1378 (Jones) Relating to the creation, administration, powers, duties, operation, and financing of the Ballinger Memorial Hospital District; granting the power of eminent domain; providing for the issuance of bonds and the levy of taxes. (30-1) Washington "Nay" (31-0)

H.B. 351 (Green) Relating to participation and credit by certain employees in retirement systems in certain cities. (30-1) Washington "Nay" (31-0)

H.B. 420 (Brooks) Relating to training employees of nursing homes, custodial care homes, and related institutions, concerning the care of persons with Alzheimer's disease and related disorders. (30-1) Washington "Nay" (31-0)

H.B. 452 (Barrientos) Relating to the authority of the State Purchasing and General Services Commission to sell surplus and salvage property to rural fire prevention districts and volunteer fire departments. (30-1) Washington "Nay" (31-0)

H.B. 692 (Brooks) Relating to limiting cancer reporting activities to specified geographical areas of the State. (30-1) Washington "Nay" (31-0)

**BILL REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

Number	Removed By
S.B. 763	Montford, Blake

**CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED
BILLS CALENDAR**

The Presiding Officer (Senator Blake in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

RECESS

Senator Blake announced at 8:38 a.m. that the Senate would stand recessed until 9:30 a.m. today in accordance with a motion previously adopted by the Senate.

AFTER RECESS

The Senate met at 9:30 a.m. and was called to order by the President.

The Reverend Chris Steele, Chaplain, St. Luke's Hospital and Texas Heart Institute of Houston, offered the invocation as follows:

Lord, You have searched us out and known us.
You are acquainted with all our ways.
Even before a word is on our lips,
You know it altogether.
Where can we go, then, from Your Spirit?
Where can we flee from Your presence?
If we take the wings of the morning
and dwell in the uttermost parts of the sea -
Even there Your hand will lead us,
and Your right hand hold us fast.
We know that, without You, we can do nothing.
Therefore, make known Your will for us
and Your presence among us
on the wings of this morning:
That in all our cares and occupations,
in all our strivings and deliberations,
our works may find favor in Your sight.
Bless, we pray, this assembly of Senators
and public servants,
that they may be, in turn, a blessing to those
whom (whose needs) they represent.
Where they are in error, reform them.
Where they are right, strengthen them.
Where they are corrupt, purify them.
Where they are inspired, sustain them.
In all times and circumstances, guide them,
and all Your servants (people)
to fulfill what You require:
"to do justice, and to love mercy,
and to walk humbly with You, our Lord and our God." Amen.

SENATE BILL ON FIRST READING

On motion of Senator Parmer and by unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 1451 by Parmer

State Affairs

Relating to the creation, administration, powers, duties, operation, financing, evaluation, and termination of crime control districts in certain counties; authorizing a tax; prohibiting the issuance of bonds; and granting the power of eminent domain.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 56, To Committee on Jurisprudence.
H.C.R. 78, To Committee on Jurisprudence.
H.C.R. 81, To Committee on Jurisprudence.
H.C.R. 82, To Committee on Jurisprudence.
H.C.R. 85, To Committee on Jurisprudence.
H.C.R. 134, To Committee on Jurisprudence.
H.C.R. 137, To Committee on Administration.
H.C.R. 147, To Committee on Jurisprudence.
H.C.R. 167, To Committee on Administration.
H.B. 9, To Committee on State Affairs.
H.B. 110, To Committee on Jurisprudence.
H.B. 161, To Committee on Criminal Justice.
H.B. 190, To Committee on Finance.
H.B. 287, To Committee on Jurisprudence.
H.B. 354, To Committee on Finance.
H.B. 430, To Committee on Criminal Justice.
H.B. 523, To Committee on Economic Development.
H.B. 573, To Committee on Criminal Justice.
H.B. 620, To Committee on Economic Development.
H.B. 625, To Committee on Economic Development.
H.B. 686, To Committee on Criminal Justice.
H.B. 1010, To Committee on Education.
H.B. 1036, To Committee on Natural Resources.
H.B. 1421, To Committee on Economic Development.
H.B. 2022, To Committee on Economic Development.

CO-AUTHOR OF SENATE BILL 171

On motion of Senator Brooks and by unanimous consent, Senator Sarpalius will be shown as Co-author of **S.B. 171**.

CO-AUTHORS OF SENATE BILL 182

On motion of Senator Edwards and by unanimous consent, Senators Krier and Truan will be shown as Co-authors of **S.B. 182**.

CO-AUTHOR OF SENATE JOINT RESOLUTIONS

On motion of Senator Montford and by unanimous consent, Senator Sarpalius will be shown as Co-author of Senate Joint Resolutions 23, 24, 25 and 26.

CO-AUTHOR OF SENATE BILLS

On motion of Senator Montford and by unanimous consent, Senator Sarpalius will be shown as Co-author of Senate Bills 287, 290, 329, 566, 567, 568, 570, 571, 572, 573, 574, 576, 577, 578, 579 and 580.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 398

By unanimous consent, Senator Glasgow, Vice-Chairman, submitted the following report for the Committee on Economic Development:

S.B. 878

S.B. 879

H.B. 418

By unanimous consent, Senator Parker submitted the following report for the Committee on Education:

S.B. 607

S.B. 372

H.B. 1050

S.B. 1139 (Amended)

C.S.S.B. 181

C.S.S.B. 778

C.S.S.B. 992

C.S.S.B. 777

C.S.S.B. 776

C.S.S.B. 775

C.S.S.B. 788

C.S.S.B. 182

GUEST PRESENTED

Senator Truan was recognized and introduced the Capitol Physician for the Day, Dr. J. M. McCullough of Corpus Christi.

Dr. McCullough was welcomed by the Senate and received an expression of appreciation for his service.

MESSAGE FROM STATE FINANCE COMMISSION

The following Message from the State Finance Commission was read and was referred to the Committee on Nominations:

STATE FINANCE COMMISSION

Carroll N. Sullivan, Jr.
Chairman

April 23, 1987

Ms. Betty King, Secretary of the Senate
Texas Legislature
P.O. Box 12068
Austin, Texas 78711

Dear Ms. King:

The State Finance Commission has appointed Kenneth W. Littlefield as Banking Commissioner to serve at the pleasure of the Commission. His appointment was effective December 5, 1986.

Senate confirmation of the appointment is required by Article 342-201 of the Texas Banking Code. Attached is a copy of the statute.

Please notify the appropriate Senate Committee of Mr. Littlefield's appointment, so that a confirmation hearing may be scheduled.

Thank you for your help and cooperation. Please call Jorge Gutierrez, General Counsel to the Commission, at 479-1200, if there are any questions relating to this matter.

Respectfully submitted,

/s/Carroll N. Sullivan, Jr.
Carroll N. Sullivan, Jr.
Chairman, State Finance
Commission

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
April 24, 1987

TO THE SENATE OF THE SEVENTIETH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE UPPER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS:

For a term to expire February 1, 1991:

VICTOR WAYNE CHOATE
1131 N. Bell
San Angelo, Texas 76903

Mr. Choate is being reappointed.

TO BE A MEMBER OF THE GUADALUPE-BLANCO RIVER AUTHORITY BOARD OF DIRECTORS:

For a term to expire February 1, 1993:

HARRY A. (ALEX) FISH
P. O. Box 776
Boerne, Texas 78006

Mr. Fish is replacing A. C. Schwethelm of Comfort whose term expired.

TO BE A MEMBER OF THE SULPHUR RIVER BASIN AUTHORITY BOARD OF DIRECTORS:

For a term to expire February 1, 1993:

WILLIAM O. MORRISS
#14 Lanshire
Texarkana, Texas 75503

Mr. Morriss will be replacing Bill Jennings of Clarksville whose term expired.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

**COMMITTEE SUBSTITUTE SENATE BILL 1001
ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1001, Relating to the designation of certain chemicals as volatile chemicals.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1001
ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1001** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 343 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 343, Relating to the offense of criminal trespass and providing a defense to prosecution for peace officers and fire fighters acting in the lawful discharge of an official duty.

The bill was read second time.

Senator Farabee offered the following committee amendment to the bill:

Amend Section 1 of **S.B. 343**, subsection (c) of Section 30.05 of the Penal Code by striking the language of (c) and inserting the following words in lieu thereof (starting at line 24, page 1 of the committee printing of **S.B. 343**):

It is a defense to prosecution under this section that the actor was a peace officer or fire fighter acting in the lawful discharge of an official duty while responding to an emergency or conducting a lawful search or seizure.

The committee amendment was read.

Senator Farabee offered the following substitute for the committee amendment:

Floor Amendment No. 1

Amend Section 1 of **S.B. 343**, subsection (c) of Section 30.05 of the Texas Penal Code by striking the language of (c) and inserting the following words in lieu thereof (starting on line 47 of the printed bill):

It is a defense to prosecution under this section that the actor was a peace officer or fire fighter acting in the lawful discharge of an official duty while responding to an emergency or conducting an otherwise lawful search or seizure.

The amendment was read.

On motion of Senator Farabee and by unanimous consent, the amendment was withdrawn.

Senator Farabee offered the following substitute for the committee amendment:

Floor Amendment No. 2

Amend Section 1 of S.B. 343, subsection (c) of Section 30.05 of the Texas Penal Code by striking the language of (c) and inserting the following words in lieu thereof (starting on line 47 of the printed bill):

It is a defense to prosecution under this section that the actor was a peace officer or fire fighter acting in the lawful discharge of an official duty while responding to an emergency.

The substitute amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Committee Amendment No. 1, the amendment as substituted was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 343 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 343 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
April 24, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 507, Relating to bonds and insurance required of certain clerks.

H.J.R. 8, Ratifying a proposed amendment to the Constitution of the United States relative to the compensation of members of the United States Congress and when any increases therein shall take effect.

S.B. 83, Relating to the issuance of receipts as evidence of the payment of property taxes.

S.B. 151, Relating to the authority of courts of appeals to issue writs of mandamus.

S.B. 266, Relating to defenses in suits to collect delinquent ad valorem taxes.

S.B. 739, Relating to participation and credit in, benefits from, and contributions to the Texas County and District Retirement System.

H.B. 788, Relating to the jurisdiction of the County Court of Fayette County.

H.B. 2131, Relating to the administration, powers, duties, operation, and financing of the Canadian River Municipal Water Authority.

H.B. 2506, Relating to the creation, administration, powers, duties, operation, and financing of the Fannin County Hospital District including the power to levy taxes, issue bonds, and take property by eminent domain.

H.B. 2510, Relating to the creation, administration, powers, duties, operation, and financing of the Hall County Hospital District.

H.B. 2523, Relating to the jurisdiction of the County Court at Law of Kleberg County.

H.B. 15, Relating to suits by or against Texas Southern University.

H.B. 77, Relating to the use of a name of a business entity that misleadingly implies that the entity is a corporation; providing a penalty.

H.B. 78, Relating to the regulation of plumbers and plumbing.

H.B. 95, Relating to authorizing written admonitions to defendants in criminal cases.

H.B. 163, Relating to the compensation of certain attorneys serving as prosecutors pro tem.

H.B. 285, Relating to the availability of special license plates for the surviving spouses of former prisoners of war.

H.B. 328, Relating to the notice that a taxing unit must give of a proposed ad valorem tax rate increase.

H.B. 361, Relating to the appointment of temporary administrators, representatives, and guardians for certain persons and estates.

H.B. 362, Relating to the payment of claims against an estate.

H.B. 363, Relating to the persons authorized to collect expenses incurred in defending a will.

H.B. 364, Relating to the inclusion of social security numbers in applications in certain probate proceedings.

H.B. 366, Relating to payment of claims without guardianship and the administration of terminated guardianship assets.

H.B. 368, Relating to the disclaimer of property or interest receivable from a decedent under a will or by an inheritance.

H.B. 425, Relating to special license plates for the surviving spouses of disabled veterans.

H.B. 595, Relating to notifying a property owner of the owner's right to appeal an order of an appraisal review board.

H.B. 622, Relating to the deadline for filing a protest of a property tax determination.

H.B. 710, Relating to the voluntary designation of a homestead.

H.B. 758, Relating to the public agencies that may participate in certain 9-1-1 emergency communication districts.

H.B. 875, Relating to the regulation of securities and fees related to regulation.

H.B. 969, Relating to creation of the offense of operating a truck tractor without safety guards or flaps.

H.B. 973, Relating to punishment for certain offenses involving leaving the scene of a motor vehicle accident.

H.B. 1020, Relating to the conveyance of certain state-owned real property in Travis County.

H.B. 1068, Relating to publications issued by the legislature or legislative agencies.

H.B. 1100, Relating to a preference for a resident bidder when two or more identical bids are submitted for a city or district contract.

H.B. 1134, Relating to the abolition of certain conservation and reclamation districts, including municipal utility districts, that become a part of more than one city.

H.B. 1180, Relating to notice of intention to dissolve a corporation.

H.B. 1190, Relating to information contained in a driver's license or personal identification certificate.

H.B. 1191, Relating to the sale or distribution of personal identification certificates providing criminal penalties.

H.B. 1270, Relating to the terms of court of the 70th and 161st District Courts.

H.B. 1307, Relating to the authority of the Llano County Municipal Utility District No. 1 to exercise certain powers and duties and to borrow and spend money, issue bonds and bond and tax anticipation notes, and to levy maintenance taxes with regard to the construction and maintenance of certain roads and turnpikes, and validating certain acts of the district.

H.B. 1347, Relating to the regulation of certain drillers by the Texas Water Well Drillers Board.

H.B. 1504, Amending Section 51.002, Property Code, as amended relating to the time and place for sale of property under a contract lien and the notice to be given to the debtor of default and opportunity to cure on residential real property.

H.B. 1509, Relating to proof of water rights for release of funds by the Texas Water Development Board.

H.B. 1523, Relating to certain procedures related to investigations of judges by the State Commission on Judicial Conduct.

H.B. 1549, Relating to the authority of a city to provide for the exclusive provision of ambulance services for the city.

H.B. 1560, Relating to the firemen's relief and retirement fund in certain cities; amending Sections 3(a), 3(c), 3(f), 4, 5(a)(2), 6(b), 10(a), 11(d), 11(e), 11(f), 11(i) and 23; repealing Section 7; and adding Section 6(h), Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243c.1, Vernon's Texas Civil Statutes).

H.B. 1568, Relating to the creation of the constitutional office of criminal district attorney of Brown County, to the abolition of the office of county attorney of Brown County, and to the election and duties of the district attorney of the 35th Judicial District.

H.B. 1613, Relating to the adoption of the Texas Coordinate System of 1983 for designating the geographic position of points on surface of the earth.

H.B. 1636, Relating to the amount of per diem paid to members of certain State boards and commissions.

H.B. 1642, Relating to the Texas School for the Blind; changing the name of the Texas School for the Blind to the Texas School for the Blind and Visually Impaired.

H.B. 1650, Relating to the effect of certain property appraisal appeals on the amount of State funding that a school district receives for public education.

H.B. 1652, Relating to the requirement that a person first obtain a license or permit before exercising a privilege authorized by the Alcoholic Beverage Code.

H.B. 1653, Relating to the maintenance of required records at certain locations by the holder of a branch distributor's license.

H.B. 1731, Relating to the authority of the Jefferson County Drainage District No. 6 to make purchases and to acquire and sell property.

H.B. 1737, Relating to the fiscal year and compensation of directors of the Trinity Bay Conservation District.

H.B. 1747, Relating to recovery by the State for the value of certain fish, shellfish, reptiles, amphibians, birds, or animals.

H.B. 1748, Relating to affidavits certifying certain convictions under the Parks and Wildlife Code and other information provided to the Texas Parks and Wildlife Department by a justice court.

H.B. 1756, Relating to a foreign trade zone in Travis County.

H.B. 1775, Relating to the punishment for the offense of unlawfully removing voted ballots from a ballot box.

H.B. 1812, Relating to prohibiting the purchase and sale of snook, tarpon, and striped bass; creating an offense.

H.B. 1834, Relating to certain fresh water supply districts assuming the authority of road districts.

H.B. 1990, Relating to the compensation of commissioners of the Brazoria County Conservation and Reclamation District No. 3.

H.B. 2024, Relating to the sale of a homestead.

H.B. 2106, Relating to the drawing of boundaries of Single-Member School Board Trustee Districts.

H.B. 2130, Relating to the definition of personal property owned by the State, for purposes of record keeping by State agencies under the property accounting system administered by the State Purchasing and General Services Commission.

H.B. 2187, Relating to certain unclaimed or abandoned personal property seized by peace officers.

H.B. 2308, Relating to requiring prisoners in a county jail to reimburse that county for medical, dental, and health services paid on his behalf.

H.B. 2513, Relating to the length of service required to qualify as a retired justice or judge for the purpose of conducting marriage ceremonies, amending Sec. 1.83(b), Family Code.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

LEAVE OF ABSENCE

Senator Leedom was granted leave of absence for the remainder of today on account of important business on motion of Senator Brooks.

(Senator Parmer in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 171 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 171, Relating to the regulation of physicians under the Medical Practice Act and to the membership, powers, and duties of the Texas State Board of Medical Examiners; providing a penalty.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 171 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 171** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 748 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 748, Relating to district and county attorneys conducting a private practice of law in county or district offices.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 748 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 748** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 248 ON SECOND READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 248, Relating to the compensation of a retired judge assigned as a visiting judge.

The bill was read second time.

Senator Washington offered the following committee amendment to the bill:

Amend **S.B. 248** by inserting a new Section 1 to read as follows and renumbering the following sections accordingly:

SECTION 1. Section 1.003(e), Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) A retired justice or judge assigned as provided by this section is entitled to receive, pro rata for the time serving on assignment, from money appropriated from the general revenue fund for that purpose, an amount equal to ~~the difference between the total amount of the justice's or judge's judicial retirement benefits and~~ the salary paid by the state to a ~~an~~ associate justice of a court of appeals.

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Washington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 1381 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1381, Relating to prohibiting injunctions, declaratory judgements, and certain other actions from being brought against the state in a tax matter.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1381 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1381** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Green, Harris, Henderson, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmor, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Glasgow, Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Glasgow and Henderson asked to be recorded as voting "Nay" on the final passage of the bill.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Present-not voting" on the final passage of the bill.

SENATE BILL 968 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 968, Relating to bonding and other surety requirements for payment of motor fuel taxes.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 968 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 968** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

(Senator Glasgow in Chair)

SENATE BILL 1207 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1207, Relating to the authority of a home-rule city to provide human services to the indigent.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1207 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 1392 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1392, Relating to the confidentiality of the name, address, and telephone number of a victim of certain sexual offenses.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1392 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1392** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1407 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1407, Relating to state support for the National Center for Manufacturing Sciences.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1407 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1407** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 715 ON SECOND READING

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 715, Relating to certain fees set by commissioners courts.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 715 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 715 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 217 ON SECOND READING

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 217, Relating to the availability of deferred adjudication for certain defendants.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 217 ON THIRD READING

Senator Uribe moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 217 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 898
ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 898, Relating to qualifications, powers, and duties of a justice of the peace in regard to inquests and the creation of certain offenses concerning dead bodies.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 898
ON THIRD READING**

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 898 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1422
ON SECOND READING**

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1422, Relating to suspension of sentences and deferral of final disposition in justice courts.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1422
ON THIRD READING**

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1422** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

(President in Chair)

SENATE BILL 281 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 281, Restricting the abusive use of palimony suits.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 281 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 281** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1292 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1292, Relating to exempting certain items purchased with food stamps from sales and use taxes.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1292 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1292 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1192 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1192, Relating to the creation of political subdivisions having as one of their purposes the supplying of fresh water or the furnishing of sanitary sewer services within the area of the extraterritorial jurisdiction of any city.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1192 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1192 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 258 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 258, Relating to the acceptance of certain donations of money and other property by the Department of Public Safety.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 258 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 258 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 947 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 947, Relating to updating provisions of the Water Code to conform to the reorganization of the state water agencies.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 947 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 947** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

**COMMITTEE SUBSTITUTE SENATE BILL 845
ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 845, Relating to the administration of certain interests in certain state lands by the Commissioner of the General Land Office and the School Land Board; authorizing penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 845
ON THIRD READING**

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 845** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 847
ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 847, Relating to the fiduciary duties of residential landlords and to the security deposits of tenants; providing penalties.

The bill was read second time.

Question - Shall the bill be passed to engrossment?

**COMMITTEE SUBSTITUTE SENATE BILL 654
ON SECOND READING**

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 654, Relating to a person or authorized agency designated as managing conservator of a child.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 654
ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 654** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1363 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1363, Relating to participation in the optional retirement program for faculty members employed in state-supported institutions of higher education.

The bill was read second time.

Senator Caperton offered the following amendment to the bill:

Amend **S.B. 1363** as follows:

Strike the word "or" at the end of line 14.

On line 16, add between "System" and "[" the following:

;or (D) a professional librarian, a president, a chancellor, a vice president, a vice chancellor, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fill positions that are the subject of nationwide searches in the academic community.

The amendment was read and was adopted viva voce vote.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 1363 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1363 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 342
ON SECOND READING**

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 342, Relating to gambling promotion and related offenses; providing penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 342
ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 342 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1004
ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1004, Relating to alcohol and drug education in public schools.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1004
ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 1004 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 200
ON SECOND READING**

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 200, Relating to mandatory criminal history checks of certain persons applying for employment at nursing homes and custodial care homes.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Amend **C.S.S.B. 200** as follows:

(1) On page 1, line 28, strike "Licensing Agency" and substitute "Texas Department of Human Services, on behalf of the Licensing Agency,".

(2) On page 1, line 36, strike "Licensing Agency" and substitute "Texas Department of Human Services".

(3) On page 1, strike line 38 and substitute "department.".

(4) On page 1, line 39, strike "person.".

(5) On page 1, line 40, between "Agency" and "shall", insert "shall transmit the information to the Texas Department of Human Services, and the department".

(6) On page 1, line 49, strike "Licensing Agency" and substitute "Texas Department of Human Services, on behalf of the Licensing Agency,".

(7) On page 1, line 61, between "the" and "Licensing", insert "Texas Department of Human Services shall transmit the results to the Licensing Agency, and the".

(8) On page 2, line 12, strike "Licensing Agency" and substitute "Texas Department of Human Services [Licensing Agency]".

(9) On page 2, lines 38 and 39, strike "Licensing Agency" and substitute "Texas Department of Human Services [Licensing Agency]".

(10) On page 2, strike line 40 and substitute "the Texas Department of Human Services, the Licensing Agency, and the institution for which the department [Licensing]".

(11) On page 2, line 41, strike "Agency" and substitute "Agency]".

The amendment was read and was adopted viva voce vote.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 200
ON THIRD READING**

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 200** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 124 ON SECOND READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 124, Relating to the expunction of arrest records.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Amend **S.B. 124** on page 1 by striking line 18 and substituting "that it was dismissed and [because] the presentment had been made because".

The amendment was read and was adopted viva voce vote.

On motion of Senator Washington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1161
ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1161, Relating to the regulation of pharmacists, pharmacies, and dangerous drugs.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1161
ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1161** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 632 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 632, Relating to blood testing and evidence of blood testing in paternity suits and to venue in such suits.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 632 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 632** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 1396 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1396, Relating to approval of plats by cities; providing penalties.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1396 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1396** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1183 ON SECOND READING

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1183, Relating to publication of notice relating to certain real property transactions by political subdivisions.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **S.B. 1183** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Anderson, Armbrister, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Nays: Barrientos, Truan.

Absent: Lyon, Santiesteban.

Absent-excused: Leedom.

The bill was read second time and was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1183 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1183** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Anderson, Armbrister, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Barrientos, Truan, Washington.

Absent: Lyon, Santiesteban.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 2.

Yeas: Anderson, Armbrister, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Nays: Barrientos, Truan.

Absent: Lyon, Santiesteban.

Absent-excused: Leedom.

SENATE BILL 920 ON SECOND READING

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 920, Relating to the jurisdiction of municipal courts to enforce certain municipal ordinances and to the creation of the offense of illegal dumping.

The bill was read second time.

Senator Tejeda offered the following committee amendment to the bill:

Amend **S.B. 920** as follows:

- (1) On page 1, line 22, strike "\$200" and substitute "\$500".
- (2) On page 2, line 14, strike "\$200" and substitute "\$500".
- (3) On page 3, line 3, strike "\$200" and substitute "\$500".
- (4) On page 3, strike lines 11-13 and substitute the following:
 - (b) If a motor vehicle is used in illegal dumping, that use of the vehicle creates a rebuttable presumption that the individual or other legal entity in whose name the vehicle is registered has violated the law or ordinance that is the subject of illegal dumping.
- (5) On page 3, line 19, strike the following, "An offense under this section" and substitute "If a motor vehicle is used in illegal dumping, an offense under the law or city ordinance violated by the illegal dumping".

The committee amendment was read.

Senator Tejeda offered the following amendment to the committee amendment:

LEGISLATIVE REFERENCE LIBRARY
P. O. BOX 12488-CAPITOL STATION
AUSTIN, TEXAS 78711

Floor Amendment No. 1

Amend the committee amendment to **S.B. 920** by striking item (4) and substituting the following:

(4) On page 2, strike lines 27-29 and reletter the remaining subsections accordingly.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of the committee amendment, the amendment as amended was adopted viva voce vote.

Senator Tejeda offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 920** on page 1, line 46, by striking “\$200” and substituting “\$500 [~~\$200~~]”.

The amendment was read and was adopted viva voce vote.

On motion of Senator Tejeda and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 920 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 920** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 847
ON SECOND READING**

The Senate resumed consideration of the following bill on its second reading and passage to engrossment as unfinished business:

C.S.S.B. 847, Relating to the fiduciary duties of residential landlords and to the security deposits of tenants; providing penalties.

Question - Shall the bill be passed to engrossment?

(Senator Jones in Chair)

Senator Brooks offered the following amendment to the bill:

Amend **S.B. 847** by striking the first sentence of Sec. 92.102(a) in Section 2 of the bill and substituting in lieu thereof the following:

“Within a reasonable time after a landlord who owns a residential property that has more than eight (8) units, or the landlord’s agent receives a security deposit from a tenant, the landlord or his or her agent shall deposit the security deposit in a separate account in a federally insured financial institution.”

The amendment was read and was adopted viva voce vote.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 847 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 847 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 385 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 385, Relating to birth and death records.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 385 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 385 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

**COMMITTEE SUBSTITUTE SENATE BILL 1100
ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1100, Relating to the Texas Eminent Scholars Program.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 1100
ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 1100 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 353 ON SECOND READING

Senator Tejada asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 353, Relating to operating or towing a vehicle with an open bed or open flatbed when a child is occupying the bed.

There was objection.

Senator Tejada then moved to suspend the regular order of business and take up **S.B. 353** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Armbrister, Barrientos, Blake, Brown, Caperton, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Anderson, Brooks, Edwards, Sarpalius, Sims.

Absent: Santiesteban.

Absent-excused: Leedom.

The bill was read second time and was passed to engrossment viva voce vote.

MOTION TO PLACE SENATE BILL 353 ON THIRD READING

Senator Tejada moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 353** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Anderson, Blake, Edwards, Sarpalius, Sims, Washington.

Absent: Green, Santiesteban.

Absent-excused: Leedom.

HOUSE BILL 475 ON SECOND READING

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 475, Relating to the correction of certain improper cross-references in the Code of Criminal Procedure.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 475 ON THIRD READING

Senator Uribe moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 475** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

(President in Chair)

HOUSE BILL 316 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 316. Relating to the cancellation of agency contracts by fire and casualty insurance companies.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 316 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 316** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Leedom.

The bill was read third time and was passed viva voce vote.

SENATE BILL 95 WITH HOUSE AMENDMENTS

Senator Blake called **S.B. 95** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Schoolcraft

Amend **S.B. 95** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 1, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended by amending Subsections B, C, E, H, J, K, T, and V, and by adding Subsection W to read as follows:

B. The term "directing a funeral," or "funeral directing" as herein used, shall mean the directing ~~[or personal supervision]~~ by a licensed funeral director from the time of the first call until interment or entombment services are completed, or until the body is released for transport to ~~[delivered into the hands of the persons in charge of]~~ a crematorium, or released ~~[until the body is delivered to another funeral director or]~~ to a public carrier.

C. The term "first call" shall mean the beginning of the relationship and duty of the funeral director to take charge of a dead human body and have same prepared by embalming, cremation, or otherwise, for burial or disposition, provided all laws pertaining to public health in this state are complied with. "First call" does not include calls made by ambulance, when the person dispatching the ambulance does not know whether a dead human body is to be picked up. A dead human body shall be picked up on first call only under the direction and personal supervision of a licensed funeral director or embalmer. A dead human body may be transferred from one funeral home to another funeral home and ~~from a funeral home to and from a morgue where an autopsy is to be performed without a licensed funeral director personally making the transfer. In circumstances in which there is no reasonable probability that unlicensed personnel will encounter family members or other persons with whom funeral arrangements are normally made by licensed funeral directors or embalmers, a dead human body may be picked up or transferred without the personal supervision of a funeral director or embalmer. Any inadvertent contact with family members or other persons shall be restricted to unlicensed personnel identifying the employer to the person, arranging an appointment with the employer for any person who indicates a desire to make funeral arrangements for the deceased, and making any disclosure to the person that is required by any federal or state regulation. A funeral director or embalmer who directs the removal or transfer of a dead human body without providing personal supervision shall be held strictly accountable for compliance with the requirements of, and exceptions to, "first call" as provided by this Act.~~

E. The term "apprentice" as herein used is a person engaged in learning the practice of funeral directing and/or embalming under the instruction, direction, and personal supervision of a duly licensed funeral director and/or embalmer of and in the State of Texas in accordance with the provisions of this Act, and having been duly registered as such by the ~~commission~~ [Board] prior thereto.

H. The term "due notice" as herein used shall mean published notice of the time and place of regular meetings of the ~~commission~~ [Board]. Notice of time, place, and purpose of any meeting of the ~~commission~~ filed with the Texas Register [Board published in at least three (3) daily newspapers in three (3) separate cities in the state], at least ~~seven (7)~~ [fifteen (15)] days prior thereto, shall be adequate notice for any regular meeting, including the giving of examinations; however, a notice of a meeting wherein a change in the rules and regulations of the ~~commission~~ [Board] is to be considered, shall be given by written notice in the ~~[to all licensees in the State of] Texas Register[-at the address registered with the Board,]~~ at least thirty (30) days in advance of any hearing thereon.

J. An "accredited school or college of mortuary science" is a school or college which maintains a course of instruction of not less than forty-eight (48) calendar weeks or four (4) academic quarters or college terms and which gives a course of instruction that includes but is not limited to the following fundamental subjects: (a) mortuary management and administration; (b) legal medicine and toxicology as it pertains to funeral directing; (c) public health, hygiene and sanitary science; (d) mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects and treatment; treatment of special cases; restorative art; funeral management; and professional ethics; (e) anatomy and physiology; (f) chemistry, organic and inorganic; (g) pathology; (h) bacteriology; (i) sanitation and hygiene; (j) public health regulations; (k) other courses of instruction in fundamental subjects prescribed by the ~~commission~~ [Board]; and (l) local, state, and federal rules and laws relating to the care and disposition of dead human bodies.

K. An "official application blank," as that term is used herein, is a sheet bearing blank spaces for the entering of stipulated information, which sheet shall

be filled in by any person who seeks employment as funeral director or embalmer in this state. The form of this application blank shall be prescribed by the commission ~~[Board]~~. Prospective employers shall have job applicants fill in this application blank and shall remit it upon completion to the commission ~~[Board]~~. The commission ~~[Board]~~ shall inform employers as soon as possible of the status of the license of any person for whom it receives an official application blank.

T. "Written memorandum" means a written statement that itemizes the cost of funeral services or merchandise selected by a customer from the retail price list. The memorandum must also state the amount paid or owed to another person by the funeral establishment on behalf of the customer and each fee charged the customer for the cost of advancing funds or becoming indebted to another person on behalf of the customer. The memorandum must include the name, address, and telephone number of the funeral establishment and the following printed notice: "Charges are made only for items that are used. If the type of funeral selected requires extra items, we will explain the reasons for the extra items in writing on this memorandum." The memorandum must include the name, mailing address, and telephone number of the Texas Funeral Service Commission ~~[State Board of Morticians]~~ and a statement indicating that complaints may be directed to the commission ~~[Board]~~.

V. "Prospective customer" means any ~~[a]~~ consumer who enters a funeral establishment and inquires about ~~[the price of]~~ any funeral service, cremation, or merchandise. The funeral establishment may not make a distinction in providing funeral information to any customer regardless of any affiliation of the customer or whether the customer has a present need for the services or merchandise.

W. "Commission" means the Texas Funeral Service Commission.

SECTION 2. Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. TEXAS FUNERAL SERVICE COMMISSION ~~[THE BOARD]~~.

A. (1) There is hereby created the Texas Funeral Service Commission ~~[State Board of Morticians]~~, with offices located in Austin, Texas, consisting of nine (9) commissioners ~~[members]~~ who shall be citizens of the United States and residents of the State of Texas. Five (5) commissioners ~~[members]~~ must be licensed embalmers or funeral directors in the State of Texas and each of these commissioners ~~[members]~~ must have a minimum of five (5) years, consecutively, of such experience in this state immediately preceding appointment. At least three (3) such licensed commissioners ~~[members]~~ shall be embalmers. Four (4) commissioners ~~[members]~~ must be representatives of the general public who are not regulated under this Act.

(2) The commissioners ~~[members of said Board]~~ shall be appointed by the Governor, by and with the consent of the Senate for staggered terms of six (6) years. Each commissioner ~~[member]~~ shall be subject to removal by the Governor for neglect of duty, incompetence, or fraudulent or dishonest conduct. The Governor shall remove from the commission ~~[Board]~~ any commissioner ~~[member]~~ whose license to practice funeral directing and/or embalming has been voided, revoked or suspended. Any vacancy in an unexpired term shall be filled by appointment of the Governor for the unexpired term. No commissioner ~~[member of the Board]~~ shall be appointed for more than one (1) full term of service.

(3) A commissioner ~~[member of the Board]~~ or an employee of the commission ~~[State Board of Morticians]~~ who carries out the functions of the commission ~~[Board]~~ may not:

(a) be an officer, employee, or paid consultant of a trade association in the funeral industry;

(b) be related within the second degree by affinity or within the third degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the funeral industry; or

(c) communicate directly or indirectly with a party or the party's representative to a proceeding pending before the commission [~~Board~~] unless notice and an opportunity to participate is given to all parties to the proceeding, if the commissioner [~~member~~] or agent is assigned to make a decision, a finding of fact, or a conclusion of law in the proceeding.

(4) Commissioners [~~Members of the Board~~], except those commissioners [~~members~~] who are duly licensed embalmers or funeral directors, may not have personally, nor be related to persons within the second degree by affinity or third degree by consanguinity who have, except as consumers, financial interests in funeral establishments as officers, directors, partners, owners, employees, attorneys, or paid consultants of the funeral establishments or otherwise.

(5) No person [~~member~~] shall be appointed to the commission [~~Board~~] who is an officer or employee of a corporation or other business entity controlling or operating, directly or indirectly, more than three funeral establishments, if another commissioner [~~member of the Board~~] is also an officer or employee of the same corporation or other business entity.

(6) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the commission, may not act as the general counsel to the commission [~~Board~~] or serve as a commissioner [~~member of the Board~~].

(7) Appointments to the commission [~~Board~~] shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(8) Each commissioner [~~member of the Board~~] shall be present for at least one-half of the regularly scheduled meetings held each year by the commission [~~Board~~]. The failure of a commissioner [~~member~~] to meet this requirement automatically removes that commissioner [~~the member~~] from the commission [~~Board~~] and creates a vacancy on the commission [~~Board~~].

B. Each commissioner [~~The members of said Board~~], before entering upon the [their] duties of office, shall take and subscribe to the oath of office prescribed for other state officials, which oath shall be filed in the office of the Secretary of State, after having been administered under proper authority. Each person appointed to the commission [~~Board~~] shall be furnished with a certificate of appointment by the Governor which shall bear evidence of the taking of oath of office.

C. The commission [~~Board~~] shall meet in Austin, Texas, in regular session at least two (2) times each year for the transaction of business. Examination for funeral directors and embalmers shall be held at least once during each year at such times and places as the commission [~~Board~~] may designate and give due notice thereof. Special meetings or hearings may be held at such time and place as may be determined by and upon call of the Chairman, Vice-chairman, [President; Vice-President] or three (3) commissioners [~~members of the Board~~].

D. The commission [~~Board~~] shall elect, after thirty (30) days' written notice is given to the commissioners [~~members~~], a Chairman, Vice-chairman, [President; Vice-President;] and Secretary from the commissioners [~~members of the said Board~~] who shall serve one (1) year, or until their successor shall be elected and qualified in cases of resignation or death. In the absence of an Executive Director [~~Secretary~~], the Secretary shall be bonded to the State of Texas in a sum equal to the maximum annual anticipated receipts of the commission [~~Board~~] and any premium payable for such bond shall be paid from the funds of the commission [~~Board~~]; likewise, the commission [~~Board~~] will require a bond of the Executive Director [~~Secretary~~], if any, and such bond shall be deposited with the State Auditor of the State of Texas.

The Chairman [President] of the commission [Board] shall preside at all meetings of the commission [Board] unless otherwise ordered, and he shall exercise all duties and performances incident to the office of Chairman [President] of the commission [Board], and in his absence the Vice-chairman [Vice-President] shall preside. A majority of the commissioners [~~membership of the Board~~] shall constitute a quorum for the transaction of business.

E. The commission [Board] shall make an annual report covering the work of the commission [Board] for the preceding fiscal year, and such report shall be filed with the Governor and shall include:

1. An itemized account of money received and expended and the purpose therefor which has been duly certified by the State Auditor;

2. The names of all duly licensed funeral directors, embalmers, and funeral establishments. A copy shall be filed with the Secretary of State for permanent record, a certified copy of which, under the hand and seal of the Secretary of State, shall be admissible as evidence in all courts; and

3. A description of the activities of the commission [Board] during the preceding fiscal year.

F. The commission [Board] shall preserve a record of its proceedings in a book kept for that purpose.

G. The commission [Board] shall keep a permanent, alphabetical record of all applications for licenses and the action thereon. Such records shall also show, at all times, the current status of all such applications and licenses issued.

H. The commission [Board] may employ such inspectors, and clerical and technical assistants, legal counsel, including an Executive Director [Secretary], as may be determined by it to be necessary to carry out the provisions of this Act, and the terms, conditions and expenses of such employment shall be determined by the commission [Board].

I. Each commissioner [~~Membership of the Board~~] shall be reimbursed for necessary traveling expenses incident to attendance upon the business of the commission [Board], and in addition thereto, each shall receive a per diem allowance of Fifty Dollars (\$50) for each day actually spent by such commissioner [~~member~~] upon attendance to the business of the commission [Board], not to exceed sixty (60) days within a calendar year. The Secretary, in the absence of an Executive Director [Secretary], notwithstanding membership on the commission [Board], shall receive and be paid a salary for the time he devotes to the business of the commission [Board], and the amount and method of payment shall be fixed by the commission [Board] and in addition thereto, he shall receive necessary traveling expenses incurred in the performance of such duty; provided, however, he shall not be paid a per diem allowance during the time he is compensated on a salary basis; and provided that all such expenses, per diem allowance and compensation shall be paid out of the receipts of the commission [Board]. All fees and other funds received by the commission [Board] shall be deposited in the State Treasury to the credit of the General Revenue Fund. No claim for traveling expenses or per diem allowance shall be allowed or paid unless the claim be in writing and signed by the claimant under oath.

J. Except as otherwise provided by law, all records of the commission [Board] shall be open to inspection by the public during regular office hours.

K. All meetings of the commission [Board] shall be open and public.

L. The commission [Board] shall prescribe the form of the official application blank. It shall notify the proprietor of each licensed funeral establishment in this state that any person who seeks employment as a funeral director or embalmer must fill in this application blank, and that the person receiving the application must mail a copy of the official form to the commission [Board]. The commission [Board] shall inform the prospective employer of the status of the applicant's license to engage in the activity he proposes.

M. The commission [Board] may adopt such administrative procedures as may be desirable to effect the intent of the provisions of this Section.

N. The Texas Funeral Service Commission [State Board of Morticians] is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the commission [board] is abolished and this Act expires September 1, 1991.

O. The commission [Board] is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

P. If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the commission [Board] statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the commission [Board] receives the committees' statements.

SECTION 3. Subsections A, B, C, D, E, F, H, and I, Section 3, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), are amended to read as follows:

A. The commission [Board] is hereby authorized and empowered and it shall be its duty to prescribe and maintain a standard of proficiency, character and qualifications of those engaged or who may engage in the practice of a funeral director or embalmer and to determine the qualifications necessary to enable any person to lawfully practice as a funeral director, to embalm dead human bodies, and to collect the fees therefor. The commission [Board] shall examine all applicants for funeral directors' and embalmers' licenses and for apprenticeship licenses and shall issue the proper license to all persons qualified and who meet requirements herein prescribed.

B. The minimum requirements for the issuance of licenses by this commission [Board] to practice funeral directing and/or embalming in Texas are as follows, to wit:

1. For a license to practice funeral directing: the applicant shall be found by the commission [Board] to be not less than eighteen (18) years of age, a resident of the State of Texas, having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency, having graduated from an accredited school or college of mortuary science approved by this commission [Board], having served as an apprentice for at least one (1) year under the personal supervision and instruction of a licensed funeral director and having satisfied the commission [Board] through written examination as to his proficiency by examination on the subjects of: (a) the art and technique of funeral directing; (b) signs of death; (c) the manner by which death may be determined; (d) sanitation; (e) hygiene; (f) mortuary management and mortuary law; (g) business and professional ethics; (h) laws applicable to vital statistics pertaining to dead human bodies; (i) local, state, and federal rules and laws relating to the preparation, transportation, care, and disposition of dead human bodies; and such other subjects as may be taught in a recognized school or college of mortuary science. Not later than the 30th day after the day on which a person completes an examination administered by the commission [Board], the commission [Board] shall send to the person his examination results. If requested by a person who fails the examination, the commission [Board] shall send to the person not later than the 30th day after the day on which the request is received by the commission [Board] an analysis of the person's performance on the examination.

2. For a license to practice embalming: the applicant shall have been found by the commission [Board] to be not less than eighteen (18) years of age, a resident

of the State of Texas, having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency, having graduated from an accredited school or college of mortuary science approved by this commission [Board], having served as an apprentice for one (1) year under the personal supervision of a licensed embalmer, and having satisfied the commission [Board] as to his proficiency through written and practical examination on the subjects of: (a) anatomy of the human body; (b) the cavities of the human body; (c) the arterial and venous system of the human body; (d) blood and discoloration; (e) bacteriology and hygiene; (f) pathology; (g) chemistry and embalming; (h) arterial and cavity embalming; (i) restorative art; (j) disinfecting; (k) embalming special cases; (l) contagious and infectious diseases; (m) mortuary management; (n) care, preservation, transportation and disposition of dead human bodies; (o) laws applicable to vital statistics pertaining to dead human bodies; (p) sanitary science; (q) local, state, and federal rules and laws relating to the care and disposition of dead human bodies; and such other subjects as may be taught in a recognized school or college of mortuary science. Not later than the 30th day after the day on which a person completes an examination administered by the commission [Board], the commission [Board] shall send to the person his examination results. If requested in writing by a person who fails the examination, the commission [Board] shall send to the person not later than the 30th day after the day on which the request is received by the commission [Board] an analysis of the person's performance on the examination.

C. The commission [Board] is hereby authorized and empowered and it shall be its duty to approve a course of instruction to be given by any college of mortuary science or recognized school of higher learning that desires to be approved by the commission [Board]. And it shall be the duty of the commission [Board] to examine and supervise the activities of an accredited school or college of mortuary science so as to insure that said college or school is meeting the requirements of the commission [Board].

D. It shall be the duty of the commission [Board] to prescribe and supervise the course of instruction received by an apprentice while serving his or her apprenticeship, consistent with the following requirements to establish such an apprenticeship registration procedure:

1. Apprenticeship for embalmer: A license to practice the science of embalming shall not be issued unless and until the applicant therefor has served an apprenticeship period of not less than twelve (12) consecutive months under the personal supervision and instruction of a licensed embalmer and has successfully completed all requirements of apprenticeship. The only exception to this requirement shall be in the case of an applicant under reciprocity.

(a) Any person, eighteen (18) years of age or more, who desires to practice the science of embalming in this state, files application therefor, meets the requirements of the law and this commission [Board], and possesses such qualification to enter into apprenticeship training, may be registered as an apprentice. Apprenticeship for a license to practice the science of embalming must be served by the person after graduation from a school or college of mortuary science. An applicant shall pay a registration fee at the time he requests such apprenticeship registration.

(1) An applicant for a license to practice the science of embalming who attains a grade of 70% or higher on the written examination given by the commission [Board] upon payment of a registration fee shall be registered as an apprentice within six (6) months of such examination.

(b) Each registered apprentice embalmer shall be issued a certificate of apprenticeship or other means of apprenticeship identification by the commission [Board] to be served in the State of Texas. During the period of apprenticeship he shall assist in embalming a minimum of sixty (60) dead human bodies, six (6) of

which bodies the apprentice shall embalm after the first six months of the apprenticeship without aid but in the immediate presence and under the personal supervision of an embalmer duly and currently licensed in the State of Texas. No more than two (2) apprentices may receive credit due for work on any one body.

(c) An apprentice embalmer must report within ten (10) days after the end of each month each separate case handled by him or with which he has assisted in handling. Each such report shall be certified by the licensee under whom the apprentice performed his work. Throughout the period of apprenticeship, the apprentice shall report on at least one (1) such case of embalming each calendar month, within the month. In any month in which he did not embalm at least one (1) case under the direction of a licensed embalmer, a report shall be made to the commission [Board] notwithstanding.

(d) The commission [Board] shall set the registration and examination fees in an amount that is reasonable and necessary for the administration of the registration and examination.

2. Apprentice for Funeral Director: The term of apprenticeship for a funeral director's license shall be a period of not less than twelve (12) months, and may be served concurrently with apprenticeship for an embalmer's license; however, apprenticeship must be served in twelve (12) consecutive months. A person desiring to become an apprentice funeral director shall make application to the commission [Board] on a form provided by the commission [Board], and if the commission [Board] desires, he shall appear before at least one (1) member of the commission [Board], or a designated representative thereof, for approval of his application, subject to review of it by the entire commission [Board]. An applicant must be not less than eighteen (18) years of age and have completed the educational requirements prescribed for a funeral director, except an applicant for a funeral director's license may elect to serve a one-year apprenticeship prior to enrolling in a course of study in funeral directing prescribed by the commission [Board] and graduating from a school of embalming or college of mortuary science. Time spent as an apprentice while engaged in a prescribed course of study in funeral directing or as a student in a school of embalming or college of mortuary science may not be counted toward the required period of apprenticeship. The application for registration shall be sworn to and accompanied by a registration fee. If the application is accepted, an applicant will be issued a certificate of apprenticeship registration upon determination by the commission [Board] that his qualifications are satisfactory.

(a) An applicant for a funeral director's license and the examination therefor who has not completed one (1) year of apprenticeship prior to enrolling in a school of embalming or college of mortuary science shall be admitted to apprenticeship only in the event he shall have attained a grade of 70% or higher on the written examination given by the commission [Board], and the payment of a registration fee, whereupon he shall be registered as an apprentice. Provided, however, an applicant must register as an apprentice within six (6) months of such examination.

(b) An apprentice funeral director must report within ten (10) days after the end of each month each separate case with which he has assisted in handling. Each such report shall be certified to by the licensee under whom the apprentice performed the work. Throughout the period of apprenticeship the apprentice shall report on at least one (1) such case each calendar month, within the month. In any month within which he did not assist a funeral director in handling a funeral, a report shall be made to the commission [Board] notwithstanding.

(c) During the course of apprenticeship each apprentice shall assist a licensed funeral director in this state to prepare, other than by embalming, and to make final disposition of not less than sixty (60) dead human bodies, six (6) of which bodies the apprentice shall handle after the first six months of the apprenticeship. No more than two (2) apprentices may receive credit for work done on any one body.

(d) The commission [Board] shall set the registration and examination fees in an amount that is reasonable and necessary for the administration of the registration and examination.

3. Annual renewal apprenticeship certificate: Each certificate of apprenticeship issued by the commission [Board] to an apprentice embalmer or apprentice funeral director must be renewed on the first day of January of each year and will be renewed upon payment by the apprentice of a renewal fee, provided the apprentice has observed the rules and regulations of the commission [Board] with respect to his apprenticeship. Notice shall be mailed, during the month of December each year, to each registered apprentice at his last known address, notifying him that the renewal fee is due. If a registered apprentice fails to pay the annual renewal fee by the due date, the commission [Board] shall impose a late payment penalty equal in amount to the license renewal fee [~~if the apprentice is delinquent in payment of the renewal fee~~] and [~~penalty for more than thirty (30) days, the Board~~] shall suspend his certificate for nonpayment and [~~shall~~] notify such apprentice of such suspension [~~by registered mail, addressed to his last known address~~]. If the said renewal fee and penalty are not then paid within ninety (90) days from the date of such notice of suspension, the commission [Board] shall then cancel such certificate. Provided, however, after an apprentice certificate has been cancelled, the apprentice may apply for reinstatement within eighteen (18) months from the date such apprentice certificate was cancelled and the commission [Board] may reinstate said apprentice provided he meets all other requirements of the commission [Board] and pays the license fee and a late payment penalty equal in amount to the license fee for the period of the cancellation. A certificate of apprenticeship may not be renewed for more than a total period of five (5) years from the date of its issuance. It is provided that the registration fee of any apprentice who is actively engaged in the military service of the United States may be remitted for the duration of such service or for such fees and such time as the commission [Board] may deem advisable upon presentation of proper evidence required by the commission [Board]. The commission [Board] shall set the renewal fee and the penalty in an amount that is reasonable and necessary for the administration of this Act. An apprentice certificate that has been cancelled or suspended or has lapsed for a period of five (5) years or more may be reinstated only if the applicant takes and passes the applicable apprenticeship examination under Subdivision 1 or 2 of this subsection. The commission may adopt rules relating to the reinstatement of such an apprenticeship certificate.

3a. The commission [board] by rule shall adopt a system under which certificates expire on various dates during the year. The date for sending notice that payment is due and the date for suspension due to nonpayment shall be adjusted accordingly. For the year in which the certificate expiration date is changed, certification fees payable on January 1 shall be prorated on a monthly basis so that each certificate holder shall pay only that portion of the certification fee which is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date the total renewal fee is payable.

4. Notification of the commission [Board] upon entry into apprenticeship: When an apprentice enters the employ of a licensed embalmer or funeral director, he shall immediately notify the commission [Board] of the name and place of business of the licensed embalmer or funeral director whose service he has entered and the name of the funeral director or embalmer under whom he will train, and such notification shall be signed by the embalmer or funeral director in each case. If at any time thereafter such apprentice leaves the employ of the licensed embalmer or funeral director whose services he has entered, the said licensed embalmer or funeral director shall give to such apprentice an affidavit showing the length of time he has served as an apprentice with him and the number of cases

handled while so employed; the original of said affidavit shall be filed with the commission [Board] and made a matter of record, and a copy shall be furnished to the apprentice. The commission [Board] shall furnish report forms to be used by each apprentice.

(a) Any apprentice registration shall be cancelled, and the applicant required to re-register, including paying the required fees, for failure to pass the commission's [Board's] examination of such apprentice after only part of the apprenticeship has been completed. Provided, however, such applicant shall be given credit for apprenticeship time served under the cancelled license in any new registration.

5. A certificate of apprenticeship may be suspended or revoked as provided and set forth in Section 3, subsection H.

E. Any person engaged or desiring to engage in the practice of embalming or funeral directing in this state, in connection with the care and disposition of dead human bodies, shall make written application to the commission [Board] for a license accompanying same with an application fee. The license or licenses when issued shall be signed by a majority of the commission [Board] and shall authorize the licensee to practice the science of embalming and/or funeral directing. All licenses shall be registered in the office of the County Clerk in any county in which the holder thereof resides and practices embalming and/or funeral directing and shall be displayed conspicuously in the place of business. Every licensed embalmer and/or funeral director who desires to continue his practice shall biennially pay to the Secretary of the said commission [Board] a registration fee for the renewal of each funeral director's license and each embalmer's license. Said license shall become due and payable biennially on the date set by rule of the commission [31st day of May], and the commission shall [Board will] give written notice not later than the thirtieth (30th) day before that date [on or before April 1st, of each year] that the license fees are due and payable. If a licensee fails to pay the biennial registration fee by the due date, the commission [Board] shall charge the delinquent licensee a late payment penalty equal in amount to the registration fee, and shall suspend the license and notify the licensee [by certified mail, return receipt requested,] of such suspension. If the licensee does not pay the registration fee and penalty before the ninetieth (90th) day after the date on which the commission [Board] declared the license suspended, as provided herein, the license shall be automatically cancelled and the commission [Board] may thereafter refuse to reinstate the licensee until the applicant has passed a regular examination for license as provided in this Act and has paid the license fee and a late payment penalty equal in amount to the license fee for the period of the cancellation. If any license issued under this Act shall be lost or destroyed, the holder of any such license may present his application for duplicate license to the commission [State Board of Morticians], on a form to be prescribed by the commission [Board], together with his affidavit of such loss or destruction, and that he is the same person to whom such license was issued, and such other information concerning its loss or destruction as the commission [State Board of Morticians] shall require, and shall, upon payment of a duplicate license fee, as determined by the commission [Board], be granted a duplicate license. The commission [Board] shall adopt rules to carry out the biennial licensing system.

1. Any license that has been cancelled, suspended or lapsed for a period of five (5) years or more may be reinstated only after the applicant shall have passed a written and practical examination by the commission [Board] on embalming and/or a written examination on funeral directing.

2. The commission [board] by rule shall adopt a system under which licenses expire on various dates during the year. All dates for sending notice regarding payment of fees and dates for license suspension for nonpayment shall be adjusted accordingly. For the year in which the license expiration date is changed, license fees payable [on May 31] shall be prorated on a monthly basis so that each licensee shall

pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

3. The commission [~~Board~~] shall set the application fee, license fee, registration fee, and duplicate license fee in an amount that is reasonable and necessary for the administration of this Act.

F. (1) On a reciprocal basis with other states, countries, or territories the commission [~~Board~~] may issue, without examination, a license to an applicant who has a corresponding certificate or license issued by another state, country, or territory having standards for the license that are at least substantially equivalent to those of this state and who pays a reciprocal license fee. The person's application shall be accompanied by an affidavit made by the Chairman [~~President~~] or Secretary of the commission [~~Board of Mortician-Examiners~~] which issued the license, or by a duly constituted registration officer of the state, country, or territory by which the certificate or license was granted, and on which the application for registration in Texas is based, reciting that the accompanying certificate or license has not been cancelled, suspended or revoked, and that the statement of the qualifications made in the application for a license in Texas is true and correct. Applicants for a license under the provisions of this Act shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of such application, stating that the license, certificate, or authority under which the applicant practiced as a funeral director or embalmer in the state, country, or territory from which the applicant removed, was at the time of such removal in full force and effect and not cancelled or suspended or revoked. Said application shall also state that the applicant is the identical person to whom the said certificate, license, or commission was issued, and that no proceeding has been instituted against the applicant for the cancellation, suspension or revocation of such certificate or license in the state, country, or territory in which the same was issued; and that no prosecution is pending against the applicant in any state or federal court for any offense which, under the laws of the State of Texas, is a felony, or is a misdemeanor related to the practice of embalming or funeral directing. The commission [~~Board~~] shall set the reciprocal license fee in an amount that is reasonable and necessary for the administration of this Act.

(2) Licenses granted under this subsection shall be on the following basis: Before a license is granted, the applicant shall receive a temporary permit good for one (1) year from date of issuance by the commission [~~Board~~]. At the end of one (1) year, the holder of said temporary permit shall again be considered by the commission [~~Board~~], and if his application for license has been maintained and he meets all other requirements, the commission [~~Board~~] may grant said applicant a license.

H. The commission [~~State Board of Morticians~~] may seek appropriate injunctive relief against a funeral establishment, licensed embalmer, or funeral director who fails to comply with any provision of this Act. This Act does not affect any remedy or enforcement power under other laws. The commission may assess an administrative penalty against a licensed individual or establishment in the manner provided by Section 6G of this Act, or as the result of a hearing conducted in the manner provided by Section 6C of this Act. The commission may assess an administrative penalty and [~~State Board of Morticians~~] may revoke, suspend, or place on probation any licensed funeral director and/or embalmer, or apprentice and may refuse to license or admit persons to examination for any of the following reasons all of which are offenses as provided in Section 6A of this Act:

1. The presentation to the commission [~~Board~~] of any license, certificate, or diploma which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination;

2. Conviction of a crime of the grade of a felony or of a misdemeanor that is related to the practice of embalming or funeral directing;
3. Being unfit to practice as a funeral director and/or embalmer by reason of insanity and having been adjudged by a court of competent jurisdiction to be of unsound mind;
4. The use of any statement that misleads or deceives the public, including but not limited to false or misleading statements regarding (1) any legal, religious, or cemetery requirement for funeral merchandise or funeral services, (2) the preservative qualities of funeral merchandise or funeral services in preventing or substantially delaying natural decomposition or decay of human remains, (3) the airtight or watertight properties of a casket or outer enclosure, or (4) representations as to licensed personnel in the operation of a funeral establishment;
5. The purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use any license, certificate, or transcript of license or certificate, in or incident to an application to the commission [~~Board of Morticians~~] for license to practice as a funeral director and/or embalmer;
6. Altering, with fraudulent intent, any funeral director and/or embalmer license, certificate, or transcript of license or certificate;
7. The use of any funeral director and/or embalmer license, certificate, diploma, or transcript of any such funeral director and/or embalmer license, certificate, or diploma, which has been fraudulently purchased, issued, counterfeited, or materially altered;
8. The impersonation of, or acting as proxy for, another in any examination required by this Act for a funeral director and/or embalmer license;
9. The impersonation of a licensed funeral director or embalmer as authorized hereunder, or permitting, or allowing another to use his license, or certificate to practice as a funeral director or embalmer in this state;
10. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a decedent, in proximity to a deceased person whose body has not yet been interred or otherwise disposed of; or the indecent exposure of a dead human body;
11. Taking custody of, embalming, or refusing to promptly surrender a dead human body to a person or his agent authorized to make funeral arrangements for the deceased or embalming a body without the express written or oral permission of a person authorized to make funeral arrangements for the deceased or without making a documented reasonable effort over a period of at least two (2) hours to obtain the permission;
- 11A. Attempting without proper authority to embalm a dead human body as evidenced by the use of sutures or mechanical devices in the posing of any facial feature and:
 - (A) the making of any incision on the body; or
 - (B) the raising of any circulatory vessel of the body;
12. Wilfully making any false statement on a certificate of death;
13. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, funeral director, employee, or other person on a part or full-time basis, or on commission, for the purpose of soliciting individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;
14. Presentation of false certification of work done as an apprentice on apprenticeship records;
15. Unfitness by reason of present drug addiction;
16. Whenever a licensee, apprentice, or any other person, whether employee, agent or representative, or one in any manner associated with a funeral establishment shall engage in solicitation as defined in this Act;

17. Failure by the Funeral Director in Charge to provide licensed personnel for ~~[attendance;]~~ direction[;] or personal supervision for a "first call," as that term is defined in this Act;

18. Failure by a funeral director or embalmer to inform customers by a written notice on or near the casket of the different colors in which the three least expensive caskets displayed are available; or failure by the funeral director or embalmer to provide a casket in an available color requested by a customer if the customer has expressed an intent to purchase the casket and if the casket can be obtained from regular commercial suppliers under normal delivery conditions within twelve (12) hours;

19. Performing acts of funeral directing or embalming, as those terms are defined in this Act, which are outside the licensed scope and authority of the licensee;

20. Engaging in fraudulent or deceptive conduct in providing funeral services or merchandise to a consumer;

21. Statement or implication by a funeral director or embalmer that a customer's concern with the cost of any funeral service or funeral merchandise is improper or indicates a lack of respect for the deceased;

22. Failure by any person arranging for funeral services or merchandise to:

- (A) inform a customer or prospective customer of the availability of a retail price list;

- (B) provide a retail price list to the customer or prospective customer for that person to keep; or

- (C) explain to the customer or prospective customer that a contractual agreement for funeral services or merchandise may not be entered into before the presentation of the retail price list to that person;

23. Failure by any person arranging for funeral services or merchandise to provide each customer a written memorandum itemizing the cost of funeral services and funeral merchandise selected by the customer; however, if the customer selects a package arrangement based on unit pricing, the itemization requirement is satisfied by providing a written memorandum that itemizes the discount provided by the package arrangement. The use of unit pricing does not preclude the presentation of the retail price list as required by Subdivision 22 of this subsection;

24. Restricting, hindering, or attempting to restrict or hinder (1) the advertising or disclosure of prices and other information regarding the availability of funeral services and funeral merchandise that is not unfair or deceptive to consumers, or (2) agreements for funeral services between any consumer or group of consumers and funeral directors or embalmers;

25. Failure to retain and make available to the commission ~~[State Board of Morticians]~~, upon request, copies of all price lists, written notices, and memoranda of agreement required by this article for two years after the date of their distribution or signing;

26. Violation of this Act, or of any rule, regulation, or order revoking, suspending, or probating a license issued under this Act; and

27. Dishonest conduct or gross negligence in the practice of embalming or funeral directing that is likely to deceive, defraud, or otherwise injure the public.

I. The commission ~~[Board]~~ may issue such rules and regulations as may be necessary or desirable to effect the intent of the provisions of this Section.

SECTION 4. Subsections A, C, D, E, F, and G, Section 4, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), are amended to read as follows:

A. All funeral establishments shall be licensed by the commission ~~[Board]~~. All licenses shall expire at midnight on September 30th of each year. Funeral establishments created after the effective date of this Act shall apply for a license,

and upon satisfaction to the commission [Board] that this Section has been complied with and upon receipt of the licensing fee, an initial license shall be duly issued to such new establishments. Not later than thirty (30) days prior to the expiration date of licenses, the commission [Board] shall cause to be issued notification in writing by mail to each licensed funeral establishment that a renewal fee must be paid not later than September 30th before such license shall be renewed, and upon due receipt of such fees all existing licenses shall be considered automatically renewed. Any establishment which fails to pay its license renewal fee by the due date is subject to a late payment penalty equal in amount to the license renewal fee, and if the delinquency is more than thirty (30) days, the establishment shall not be permitted to operate as a funeral home until it has applied for and has been granted a new license as in the case of original applications and licenses for new funeral establishments. The commission [Board] shall set the funeral establishment license fee, the renewal fee, and the penalty in an amount that is reasonable and necessary for the administration of this Act.

C. Each funeral establishment shall be required to have a physical plant, equipment and personnel consisting of the following:

1. Some facilities in which funeral services may be conducted;
2. A physical plant which meets building standards and fire safety standards of the state and of the municipality in which the establishment is located;
3. Access to rolling stock consisting of at least one motor hearse;
4. A preparation room containing an operating table, sewer facilities, hot and cold running water, and other facilities necessary to comply with the sanitary code of the state and the municipality in which the room is located;
5. A display containing sufficient merchandise to permit reasonable selection, including five (5) or more adult caskets, provided that the least expensive casket offered for sale by a funeral establishment must be visibly displayed without concealment in the same general manner as other caskets are displayed;
6. Sufficient licensed personnel who will be available to conduct the operation of the funeral establishment;
7. A physical plant located at a fixed place, and not located on any tax-exempt property or cemetery; and
8. A physical plant which meets the health standards or health ordinances of the state and of the municipality in which the establishment is located.

It is expressly provided, however, that an establishment which functions solely as a commercial embalmer, as that term is defined in this Act, shall have a commercial embalmers establishment license, but shall not be required to meet the requirements of sub-sections 1 and 5 of this paragraph C.

D. 1. The commission [Board] may initiate action against a funeral establishment or in regard to the license of a funeral establishment [~~only~~] upon the following grounds:

- (a) Failure of a funeral establishment to substantially comply with the provisions of Subsection B or C of this Section.
- (b) Conducting or operating a funeral establishment in a manner which, in the discretion of the commission [Board], after applying contemporary community standards, is found to be offensive to the common conscience and moral standards of the community where the funeral establishment is licensed or where such offensive conduct occurred.
- (c) The use of any advertising statement of a character which misleads or deceives the public, or use, in connection with advertisements, the names of persons who do not hold a license as a funeral director or embalmer and represent them to be so licensed;
- (d) Whenever a licensee, apprentice, or any other person, whether employee, agent or representative, or one in any manner associated with a funeral

establishment shall solicit business or offer any inducement, pecuniary or otherwise, for the purpose of securing or attempting to secure business for such funeral establishment, unless such solicitation is made pursuant to a permit issued under Chapter 512, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 548b, Vernon's Texas Civil Statutes).

(e) Failure by the funeral director in charge to provide licensed personnel for ~~[attendance;]~~ direction~~[:]~~ or personal supervision for a "first call" as that term is defined in this Act.

Provided, however, with respect to alleged violations of Subsection D-1(b), (c), (d), and (e), the commission ~~[Board]~~ may not initiate action against a funeral establishment or in regard to the license of a funeral establishment when the ground or grounds of complaint are based on the conduct of employees, agents or representatives of such establishment performed outside the scope and authority of their employment or contrary to the instructions of the funeral establishment and its management. The commission may initiate such an action if those persons are acting within the scope and authority of their employment.

2. As to asserted violations of provisions of this Section, the commission ~~[Board]~~ shall have the following powers, rights and duties:

(a) The commission ~~[Board]~~ may, in any case, require a sworn statement setting forth matter complained of as a condition to taking further action.

(b) The commission ~~[Board]~~ shall cause an investigation to be made whenever a complaint is filed with or by the commission ~~[Board]~~.

(c) The commission ~~[Board]~~ may assess an administrative penalty and may revoke or suspend a funeral establishment or a commercial embalming establishment license or may place a licensee on probation for a violation of this Act or of a rule or regulation adopted under this Act. The commission may also assess an administrative penalty in the manner provided by Section 6G of this Act for such a violation.

E. Each funeral establishment shall designate to the commission ~~[Board]~~ a funeral director in charge, and such funeral director in charge shall be directly responsible for the funeral directing and embalming business of the licensee. Any change or changes in such designation shall be given to the commission ~~[Board]~~ promptly.

F. The commission ~~[Board]~~ may issue such rules and regulations as shall comply with and shall effect the intent of the provisions of this Section.

G. Any premises on which funeral directing or embalming is practiced shall be open at all times to inspection by any agent of the commission ~~[Board]~~ or by any duly authorized agent of the state or of the municipality in which the premises are located. Each licensed funeral establishment shall be thoroughly inspected at least once each year by an agent of the commission ~~[Board]~~ or by an agent of the state or a political subdivision thereof whom the commission ~~[Board]~~ has authorized to make inspections on its behalf. A report of this annual inspection shall be filed with the commission ~~[Board]~~.

SECTION 5. Section 5, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. RULES AND REGULATIONS. A. The commission ~~[Board]~~ may adopt rules and regulations and prescribe forms necessary to administer this Act.

B. Whenever it is provided in this Act that the commission ~~[Board]~~ may or shall issue any rules and regulations, such rules and regulations thereunder proposed shall be effective only after due notice and hearing.

SECTION 6. Section 6, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. REVOCATION, CANCELLATION OR SUSPENSION OF LICENSES OF FUNERAL DIRECTORS, EMBALMERS AND APPRENTICES. (a) The commission [~~State Board of Morticians~~] shall have the right to cancel, revoke, or suspend or place on probation the license of any individual person licensed under this Act as provided by subparagraph H of Section 3 above.

(b) Proceedings under this Section shall be initiated by filing charges with the commission [~~State Board of Morticians~~] in writing and under oath. Said charges may be made by any person or persons. The Chairman of the commission [~~President of the State Board of Morticians~~] shall set a time and place for hearing. Upon application, the commission [~~Board~~] may reissue a license to practice as a funeral director or embalmer to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such a manner and form as the commission [~~Board~~] may require.

(c) The commission [~~State Board~~] shall have the power to appoint committees from the commissioners [~~membership~~]. The [~~duties of any~~] committees [~~appointed from the State Board of Morticians membership~~] may consider such matters pertaining to the enforcement of this Act as shall be referred to such committees, and they shall make recommendations to the commission [~~State Board of Morticians~~] with respect thereto. The commission [~~State Board of Morticians~~] shall have the power, and may delegate the said power to any committee, to issue subpoenas[;] duces tecum, and to compel the attendance of witnesses, the production of books, records and documents, to administer oaths, and to take testimony concerning all matters within its jurisdiction. The determination shall be founded on sufficient legal evidence to sustain it. The commission [~~State Board of Morticians~~] shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The commission [~~State Board of Morticians~~] shall be represented by the Attorney General and/or the County or District Attorneys of this state, or counsel designated and empowered by the commission [~~Board~~]. Before entering any order cancelling, suspending, refusing to renew, or revoking a license to practice as a funeral director and/or embalmer, the commission [~~Board~~] shall hold a hearing in accordance with the procedure as set forth in this Act.

(d) The provisions of this Section shall not apply to funeral establishments or licenses pertaining to funeral establishments.

SECTION 7. Section 6B, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6B. CERTIFICATE FOR FOREIGN STUDENTS. Any citizen of a country other than the United States who has completed a full course of mortuary science at a commission-approved [~~Board-approved~~] college in Texas, may upon application to the commission [~~State Board~~], and after payment of the same examination fee required of others, be given the commission [~~Board~~] examinations in either embalming, funeral directing or both, and, upon successfully making the minimum grades required of other applicants, may be awarded a "Certificate of Merit" by the commission [~~Board~~]. Such certificate shall in no manner authorize a holder thereof to practice embalming and/or funeral directing in this state unless the holder is otherwise licensed as an embalmer and/or funeral director under the provisions of this Act.

SECTION 8. Section 6C, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6C. ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. (a) A person who is denied a license or certificate by the commission [~~Board~~]

is entitled to a hearing before the commission [Board] in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), if the person requests the hearing in writing.

(b) A proceeding conducted by the commission [Board] relating to the suspension or revocation of a license or certificate is governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Judicial review of the proceeding is subject to the substantial evidence rule and is governed by the Administrative Procedure and Texas Register Act.

SECTION 9. Section 6D, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6D. COMPLAINTS. (a) The commission [Board] shall investigate and keep an information file about each complaint received by the commission [Board] relating to a funeral director, embalmer, apprentice, or funeral establishment.

(b) The commission [Board] shall include in each information file a description of the complaint, the date on which the complaint was filed, the name of the complainant, a description of any information obtained by the commission [Board] after investigating the complaint, a description and date of any formal actions taken by the commission [Board] relating to the complaint, a description of the current status of the complaint, and other information that the commission [Board] considers appropriate.

(c) The commission [Board], at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

(d) The information file, except for information in the file obtained by the commission [Board] after investigating the complaint, is public information. The information obtained after investigating the complaint is not public information.

(e) If a person files a complaint with the commission [Board] relating to a licensed funeral director, embalmer, or funeral establishment, the commission [Board] shall furnish to the person an explanation of the remedies that are available to the person under this Act and information about appropriate state or local agencies or officials with which the person may file a complaint.

(f) The commission [Board] shall employ or contract for the services of one or more persons to investigate complaints of consumer interest and other complaints received by the commission [Board]. To serve in this position in a contractual capacity, a person must be licensed as a private investigator under state law and must not be subject to regulation under this Act. To serve in this position as an employee of the commission, a person must meet all requirements for licensure as a private investigator, but is not required to obtain a surety bond or liability insurance. A person employed by the commission in this capacity must not be subject to regulation under this Act.

SECTION 10. Section 6E, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6E. CONSUMER INFORMATION. (a) The commission [Board] shall prepare information of consumer interest explaining matters relating to funerals, describing the regulatory functions of the commission [Board], and describing the commission's [Board's] procedures by which consumer complaints are filed with and resolved by the commission [Board].

(b) The commission [Board] shall disseminate the information to the general public.

SECTION 11. Section 6F, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6F. EX PARTE COMMUNICATIONS. The commissioners [members] and the employees of the commission [Board] are subject to the provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), relating to ex parte communications.

SECTION 12. Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended by adding Section 6G to read as follows:

Sec. 6G. ADMINISTRATIVE PENALTY. (a) If the commission determines that a person or establishment regulated under this Act has violated this Act or a rule adopted under this Act in a manner that constitutes a ground for a license suspension under Subsection H, Section 3, or Section 4 of this Act, the commission may assess an administrative penalty against that person or establishment as a result of a hearing conducted in the manner provided by Section 6C of this Act or as provided by this section. If an administrative penalty is assessed after a hearing conducted under Section 6C of this Act, the commission shall follow the procedures described in Subsections (e) through (h) of this section.

(b) The commission may assess the administrative penalty in an amount not less than One Hundred Dollars (\$100) or more than Five Thousand Dollars (\$5,000) for each act of violation. In determining the amount of the penalty, the commission shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the commission concludes that a violation has occurred, the commission shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed and the amount to be assessed. Not later than the tenth (10th) day after the day on which the commission issues the preliminary report, the commission shall send a copy of the report to the person or establishment charged with the violation, together with a statement of the right of the person or establishment to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the twentieth (20th) day after the day on which the report is sent, the person or establishment charged either may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure either to request a hearing or to remit the amount of the penalty within the time provided by this subsection results in a waiver of a right to a hearing under this Act. If the person or establishment charged requests a hearing, the hearing shall be conducted in the manner provided by Section 6C of this Act. If it is determined after hearing that the person or establishment has committed the alleged violation, the commission shall give written notice to the person or establishment of the findings established by the hearing and the amount of the penalty, and shall enter an order requiring the person or establishment to pay the penalty.

(e) Not later than the thirtieth (30th) day after the day on which the notice is received, the person or establishment charged shall pay the administrative penalty in full, or, if the person or establishment wishes to contest either the amount of the penalty or the fact of the violation, remit the assessed amount to the commission for deposit in an escrow account. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall remit the appropriate amount to the person or establishment charged with the violation not later than the thirtieth (30th) day after the day on which the judicial determination becomes final.

(f) Failure to remit the amount of the administrative penalty to the commission within the time provided by Subsection (e) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(g) An administrative penalty owed under this section may be recovered in a civil action brought by the Attorney General at the request of the commission.

(h) A penalty collected under this section shall be deposited in the State Treasury to the credit of the general revenue fund.

SECTION 13. Section 7(b), Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The commission ~~[Board]~~ may file a complaint with the appropriate governmental authorities to begin prosecution of a person who commits an offense under Section 6A of this Act. The commission ~~[State Board of Morticians]~~ or any adversely affected party may sue a funeral establishment or licensed embalmer or funeral director who fails to comply with any provision of this Act for appropriate injunctive relief. This Act does not affect a remedy or enforcement power under other laws. Any person who practices as a funeral director, embalmer or apprentice in violation of any provisions of this Act shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or shall be imprisoned in the county jail for not more than thirty (30) days, or both. Each day of such practice shall constitute a separate offense.

SECTION 14. (a) The name of the State Board of Morticians is changed to the Texas Funeral Service Commission. Any reference in the law to the State Board of Morticians means the Texas Funeral Service Commission.

(b) All appropriations made by the Legislature for the use and benefit of the State Board of Morticians are available for the use and benefit of the Texas Funeral Service Commission.

(c) Before ordering or purchasing new paper or forms to reflect the name change, the Texas Funeral Service Commission shall use all papers and forms that are in the possession of the State Board of Morticians on the effective date of this Act.

SECTION 15. Section 12 of this Act, providing for the assessment of administrative penalties by the Texas Funeral Service Commission, applies only to a violation that occurs on or after the effective date of this Act.

SECTION 16. This Act takes effect September 1, 1987.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Robinson

Amend C.S.S.B. 95 as follows:

(1) On page 2, line 7, strike "In circumstances in which there is no reasonable".

(2) On page 2, strike lines 8-22.

Floor Amendment No. 2 - Wright

Amend C.S.S.B. 95 on page 2, line 2, by striking "and personal supervision" and substituting "[and personal supervision]".

The amendments were read.

Senator Blake moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 708 REREFERRED

On motion of Senator Henderson and by unanimous consent, **S.B. 708** was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Economic Development.

SENATE BILL 1451 REREFERRED

On motion of Senator Parmer and by unanimous consent, **S.B. 1451** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Intergovernmental Relations.

MEMORIAL RESOLUTION

S.R. 456 - By Sims: Memorial resolution for Mrs. Clara Pope Willoughby.

CONGRATULATORY RESOLUTIONS

H.C.R. 129 - (Barrientos): Extending congratulations to the Lanier High School girls' basketball team.

S.R. 457 - By Johnson: Extending congratulations to Saint John Missionary Baptist Church of Dallas on its 111th anniversary.

S.R. 458 - By Glasgow: Extending congratulations to Don Carr on being named to the Hall of Fame of the National Cutting Horse Association.

S.R. 459 - By Glasgow: Commending Raleigh and Edith Burchfield.

S.R. 460 - By Santiesteban: Recognizing April 25, 1987, as Southwest Repertory Organization of El Paso Day in Texas.

S.R. 461 - By Barrientos: Recognizing the interns and volunteers from Southwest Texas State University, The University of Texas, and Austin High School.

S.R. 462 - By Barrientos: Commending the interns from Southwestern University.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:50 a.m. adjourned until 11:00 a.m. Monday, April 27, 1987.

FORTY-SEVENTH DAY

(Monday, April 27, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend John Hardin, Mt. Olive Missionary Baptist Church, Jasper, offered the invocation as follows: